

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

BRUCE A. VAN BUSKIRK, AND LORI A.
VAN BUSKIRK,

Plaintiffs,

v.

THE UNITED GROUP OF COMPANIES,
INC; DAVIS CAPITAL GROUP, INC; DCG
FUNDS MANAGEMENT, LLC;
DCG/UGOC FUNDS MANAGEMENT II,
LLC; MICHAEL J. UCCELLINI and
JESSICA F. STEFFENSEN as Executor and
Executrix, Respectively, of the ESTATE OF
WALTER F. UCCELLINI; MICHAEL J.
UCCELLINI; MCM SECURITIES, LLC;
and MILLENNIUM CREDIT MARKETS,
LLC,

Defendants.

Case No. 1:16-cv-00881-GLS-CFH

NOTICE OF APPEAL

Notice is hereby given that Plaintiffs Bruce A. Van Buskirk and Lori A. Van Buskirk (“Plaintiffs”) in the above-captioned case appeal to the United States Court of Appeals for the Second Circuit from this Court’s April 13, 2018 Summary Order (Dkt. No. 60) denying Plaintiffs’ Motion for Reconsideration of the Court’s Order and Judgment in favor of Defendants. The original Text Only Order and Judgment in favor of Defendants was entered into on March 21, 2018 (*see* Dkts. No. 54 and 55), but Plaintiffs timely moved for reconsideration that same day (Dkt. No. 57). As set forth above, the Court denied Plaintiffs’ motion on April 13, 2018. Thus, this Notice of Appeal—filed within 30 days of the Court’s Summary Order denying Plaintiffs’ Motion for Reconsideration—is also timely filed pursuant to Federal Rule of

Appellate Procedure 4(a)(1)¹. *See, Transportes Navieros y Terrestres S.A. de C.V. v. Fairmount Heavy Transport, N.V.*, 572 F.3d 96, 100 (2d Cir. 2009) (holding that a timely filed motion for reconsideration tolls the time period in which a party must file a notice of appeal pursuant to Federal Rule of Appellate Procedure 4(a)); *see also Lora v. O'Heaney*, 602 F.3d 106, 110 (2d Cir. 2010) (recognizing that had a party's motion for reconsideration been timely filed, "it would have tolled the time to file a notice of appeal regarding the underlying order until decision of the motion for reconsideration").

DATED: May 14, 2018

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By /s/ David J. Ko

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¹ Thirty days from April 13, 2018 was Sunday, May 13, 2018. Pursuant to Fed. R. Civ. P. 6(a)(1)(C), the time is extended to today, Monday, May 14, 2018.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 14th day of May, 2018, the foregoing was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's CM/ECF system.

DATED: May 14, 2018.

/s/ David J. Ko

David J. Ko